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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1525 OF 2016

Charmy Jayesh Bhandari ..Applicant.
Vs.
The State of Maharashtra. ..Respondent.

Mr M.S. Singh for the applicant.
Smt. N. S. Jain, APP for the Respondent-State.

CORAM :- A.S.GADKARI, J.
DATE :- 4th October, 2016

P.C.

- 1) The applicant is apprehending arrest in CR No. 388/2016 dated 13/8/2016 registered with Borivali Police Station, Mumbai under sections 327, 354, 452, 324, 504, 506 (II), 143, 145, 147, 149 of the IPC and section 37 (A) read with 135 of the Maharashtra Police Act.
- 2) The first information report is lodged by Smt. Aparna D.Sawant on 13/8/2016. It is stated that the elder brother of her husband namely Maruti D. Sawant had purchased room No. 6 at Padmavati Chawl, Shimpoli village, Shimpoli road, Chikuwadi, Borivali (West), Mumbai from Madan S. Shinde in the year 1999. That her brother-in-law was staying alone in the

said room as his wife had expired 20 years prior to it. That the said Maruti Sawant expired on 20/2/2013 intestate. After the death of said Maruti Sawant, the complainant and her husband used to visit the said room intermittently and pay society maintenance charges. That on 13/8/2016 the complainant along with her husband had been to the said room at about 4:00 p.m. for carrying out the repair work. At that time, the applicant along with her husband Jayesh Bhandari, Babu Yadav and other accused persons came at the said spot, gave kicks on the door of the said room and forcefully entered into it. The accused persons threatened the complainant and her husband to vacate the said premises otherwise the complainant and her husband will have to face dire consequences. At that time, co-accused Babu Yadav committed the offence as contemplated under section 354 of the IPC. When the complainant was retrieving herself from the said incident, it is specifically and categorically alleged that the applicant pulled her saree and gave her a slap on her face. The other accused persons assaulted her husband with bamboo stick. The co-accused Jayesh H.Bhandari also assaulted the complainant causing injury on her right hand.

It is further stated that when the complainant was

taking medical treatment at the hospital, the applicant unlawfully entered into the said premises and did not come out despite the police warned her. Ultimately the police broke open the door of the said room and the lady police constable took out the applicant from the said room. In the premise, the first information report is lodged.

3) The learned counsel for the applicant submitted that it is only the allegation of the complainant that the present applicant slapped her and pulled her saree. He submitted that the husband of the applicant has purchased the said room from Shri Maruti Sawant by a Deed of Assignment dated 18/9/2012. He submitted that there is no question of the applicant having committed tres-pass in the said room as the applicant was in possession of the said room in pursuance of the said Deed of Assignment 18/9/2012. He submitted that the custodial interrogation of the applicant is not necessary as no recovery is to be made at the behest of the applicant. He therefore prayed that the applicant may be granted pre-arrest bail.

4) Per contra, the learned APP vehemently opposed the application and on instructions submitted that it is the modus operandi of the applicant and her husband to grab the properties of the people from the said

vicinity. She further submitted that in the FIR specific role has been attributed to the applicant in commission of the present crime and her custodial interrogation is necessary. She, therefore, prayed that the present application may be dismissed.

5) At the outset, it is to be noted here that said deed of assignment is an unregistered document. It further appears that the signature of Shri Maruti Sawant effected on said deed of assignment clearly varies from his signature which is on the original sale agreement dated 14/6/1999. Prima facie it appears that the deed of assignment dated 18/9/2012 is not a genuine document and the signature of the deceased Maruti Sawant appears to have been forged on the said document. It is for the police to investigate from the said angle also and to take the said issue to its logical end. Apart from the said fact, it is to be noted here that the complainant in her first information report has categorically named the applicant and has assigned a specific role to her in the present crime. The papers of investigation further reveal that the husband of the applicant is indulging into similar type of offences and four crimes are already registered against him. As submitted by the learned APP, it appears that it is the modus operandi of the applicant and her husband to

grab the properties of the people from the vicinity.

6) In view of the above and after taking into consideration the serious allegations against the applicant and the gravity of the offence, this Court is of the view that the applicant is not entitled for the grant of pre-arrest bail.

The application is accordingly dismissed.

(A.S.GADKARI, J.)